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9 JUN 1965

MEMORANDUM FOR: Deputy Director of Central Intelligence
SUBJECT: Agency Legislation

1. This memorandum contains a recommendation for the approval of the Deputy Director of Central Intelligence. Such recommendation is contained in paragraph 5.
2. Certain of the Agency's statutory authorities are obsolete and unduly restrictive. They deal with travel and medical care and the maximum amount of compensation we may pay our consultants (\$50 per day).
3. When enacted in 1949, the Agency's travel, allowances, and related expenses authorities were patterned after those spelled out in the Foreign Service Act of 1946 for the Department of State. However, as the result of subsequent liberalizing amendments to the Foreign Service Act, the Agency's specific statutory authority for travel and medical care no longer matches those of State. Further, legislation now pending on the Hill will tend to widen the gulf of specific statutory authorities.


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4. Legislation is required to enable us to adopt certain of the Department of State's more liberal travel and medical authorities and to pay our consultants compensation at a rate which is competitive with other Government agencies. A background paper which goes into this matter in greater detail is attached for your information. It is felt that legislative action is clearly justified on the grounds that the Agency's once broad provisions in these areas are out of date and do not now provide the type of authority intended or needed.

5. It is recommended that the Deputy Director of Central Intelligence approve the entering into of full discussions on this matter with the Bureau of the Budget and the Agency's Congressional Subcommittees.

S/ Lawrence R. Houston

LAWRENCE R. HOUSTON
General Counsel

Attachment:

Background Paper

**The recommendation in
paragraph 4 is approved.**

/s/ Richard Helms

9 JUN 1965

Richard Helms
Deputy Director

Date

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MEMORANDUM FOR THE RECORD

SUBJECT: Agency Legislative Program - 89th Congress

1. This memorandum presents background for the Agency's legislative program in the 89th Congress.
2. During the first session of the 88th Congress, an omnibus bill proposing a number of amendments to the Central Intelligence Agency Act of 1949 was cleared through the Bureau of the Budget and presented to Congress. The main purpose of the bill was to improve the Agency's retirement program and to clarify or broaden the Agency's statutory authority in certain other areas. The House Armed Services Committee, after reviewing the omnibus bill, concluded that they could not devote the time needed to cover all of its provisions and push for its passage. As a result and in keeping with the Agency's priority needs, a substitute bill was introduced, which covered the Agency's retirement program only. In retrospect, this tactic proved correct since the retirement bill was not pushed through until the waning days of the 88th Congress in October 1964.
3. Attached is a listing of items which have been identified for possible legislative action. It includes those items in the omnibus bill of 1963 which the House Armed Services Committee decided not to act upon in the 88th Congress.

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4. While there is some question whether it would be in our best interests to pursue a broad legislative program similar to the omnibus bill of 1963 so soon after the passage of our retirement legislation, we are constantly on the outlook for opportunities which could be used to obtain enactment of at least a portion of our legislative program. In this connection, the time now appears to be ripe to push for one amendment in the National Security Act of 1947 (50 U.S.C. 401), and one in the Central Intelligence Agency Act of 1949 (40 U.S.C. 403 (a)). These amendments would be in the nature of repealers and would delete the \$50 per day statutory limitation on the maximum compensation the Agency may pay to its consultants and clarify the Agency's statutory authority to adopt the Department of State's or other statutory authority in the overseas travel and medical care field.

5. The authority for the Agency to expend funds to carry out its functions is contained in Section 8 of the CIA Act of 1949. This section amounts to permanent spending authority. While Section 8 provides an extremely broad authority for the expenditure of funds, it must be read in connection with other provisions of law which apply to the Agency and is subordinate to those provisions in any area of conflict.

Overseas Travel and Medical Care Authority

6. Section 4 of the Central Intelligence Agency Act was enacted in 1949 to extend to Agency employees serving abroad medical care and travel and overseas allowances similar to those provided Foreign Service personnel in the Foreign Service Act of 1946, as amended. Since in areas of conflict, Section 8 cannot normally be used to broaden the specific authorities in Section 4, and because of amendments to the Foreign Service Act, which were enacted subsequent to 1949, the Agency

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has not been able to keep entirely apace with the Department of State in these areas. However, through the enactment of the Overseas Differentials and Allowances Act of 1960 (5 U.S.C.A. 3031), we were placed on par with the Department of State in the allowance field. That Act repealed Section 4(b) of the CIA Act of 1949, which was the Agency's specific authority concerning overseas allowances. In the area of overseas travel and medical care, the Agency has adopted the Department's program to the extent that this did not raise a conflict with our own authority in Section 4. The Comptroller General informally concurred in the Agency's use of the authority of Section 8 for this purpose, with the understanding that we would seek our own clarifying and supporting legislation.

7. The House Foreign Affairs Committee is now holding hearings on a bill, H.R. 6277, which would allow the Secretary of State to pay, "Sec. 19 . . . (11) travel and related expenses, without regard to the provisions of this or any other law, whenever he determines that extraordinary conditions, or circumstances involving personal hardship, warrant the payment of such expenses incident to appointment, service, or separation of officers or employees of the Service, including any such expenses of the members of their families." While the outcome of H.R. 6277 is not certain, the Department of State is optimistic about its chances. If Section 19 is enacted, it will widen the gulf between the Secretary of State and the Director concerning specific statutory authority for overseas travel.

8. The consideration of H.R. 6277 on the Hill at this time gives us an opportunity to point out the growing discrepancy between the Department's overseas travel and medical care statutory authorities and Section 4 of the CIA Act of 1949.

9. If the restrictive subsections of Section 4 were repealed, the Director could adopt under Section 8 any existing and future statutory authority in the area of overseas travel and medical care, including that given to the

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Secretary of State. A repeal of the restrictive subsections is preferable to other legislative alternatives available:

(a) Amend Section 4 to specifically conform to the existing travel and medical care provisions in the Foreign Service Act. Arguing against this is the loss of flexibility to adopt other provisions of law and the uncertainty and time lag involved in keeping legislatively apace with future amendments to the Foreign Service Act.

(b) Amend Section 4 to specifically incorporate by reference existing and future statutory authority granted to the Secretary of State on these matters. Arguing against this is the reluctance of the Armed Services Committees to subordinate their legislative prerogatives over the Agency to other committees in the Congress and the ever-present possibility that Congress may cut back the Secretary's authority in these fields.

(c) Repeal Section 4 in toto to eliminate the possibility that any of its provisions in the future would prove to be restrictive in nature when compared to other laws. Arguing against this would be the corresponding loss of the words, "excluding Alaska and Hawaii," which is a singular feature of Section 4 and, among other things, enables the Agency to transport the remains of a deceased employee from these states and is helpful in making determinations under the CIA Retirement Act with respect to service rendered abroad.

Consultants' Pay

10. While the repeal of Section 4 would take care of a number of priority legislative items carried over from the 1963 omnibus legislative amendments, there is one priority item which was not presented to Congress

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in 1963. Section 303(a) of the National Security Act of 1947, as amended, (50 U. S. C. 401) provides that the Secretary of Defense, the Chairman of the National Security Resources Board (now the Director of the Office of Emergency Planning), and the National Security Council may appoint advisory committees and employ part-time advisory personnel and compensate them at a rate not to exceed \$50 per day. The Director of Personnel has completed a study which clearly indicates that this \$50 a day compensation maximum, established in 1949, is unreasonably low. Most Government agencies may pay their consultants the maximum rate established for a GS-15 (\$83.04 a day). Although the Section 303(a) limitation also applies to the Department of Defense, DOD has, in practice, avoided the limitation through remedial provisions in their annual appropriation bills. Unfortunately, we cannot adopt this procedure because Section 8 of the CIA Act of 1949 was intended to serve and does serve as a substitute in lieu of yearly appropriation bills.

11. The Director of Personnel's study points out that this \$50 limitation is causing us difficulty in obtaining the services of and properly compensating consultants. If the Director of Central Intelligence is taken out of the scope of Section 303(a) of the National Security Act of 1947, he could compensate consultants of the Agency at a rate competitive with other Government agencies.

12. It is felt that repeal of the consultant pay limitation and certain subsections of Section 4 can be justified on the grounds that these once broad provisions are out of date and unduly restrictive and neither provide the Agency with the type of authority intended or needed.

13. It is felt that we should now assemble a legislative package to clarify and broaden the Agency's authority in the field of overseas travel

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and medical care and to increase the maximum compensation that may be paid to Agency consultants, with the understanding that the attendant strategy and tactics to be used, as well as the timing to be followed in obtaining legislative action on other items of interest to the Agency, will also be actively pursued.

SIGNED,


Office of Legislative Counsel

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Attachments:

- (a) Suggested Agency Legislative Program
- (b) Director of Personnel's Study - "Justification and Explanation"

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